

MINUTES
KENTUCKY BOARD OF PHARMACY
Spindletop Administration Building, Suite 302
2624 Research Park Dr.
Lexington, Kentucky

March 14, 2007

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at Spindletop Administration Building, 2624 Research Park Dr., Lexington, Kentucky. President Orzali called the meeting to order at 9:08 a.m.

Members present: Peter Orzali, Anne Policastri, Catherine Shely, Sandy Simpson, and Patricia Thornbury. Staff: Michael Burleson, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Steve Hart, Katie Busroe and Phil Losch, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; and Cheryl Lalonde, Assistant Attorney General and Board Counsel. Guests: Brian Fingerson, Pharmacist Recovery Network Committee; Trey Hieneman, APSC; Chris Killmeier, Walgreens; Jan Gould, Kentucky Retail Federation; Michael Wyatt, Cardinal Health; Brad Hall, KPhA; Richard Ross; Bernard Coomes; Steve Daffron; Autumn Cropper, OSU PY4 student; Erin Morsey, LECOM School of Pharmacy; Jack Nicholson, Carrie Rumford, Hope Smith, Cheryl Hawkins and Jill Liedtke, University of Kentucky College of Pharmacy PY4 students. Melanie Curtis, Court Reporter, recorded the meeting. Absent: Board Member Mike Leake.

MINUTES: On motion by Dr. Shely, seconded by Dr. Policastri and passed unanimously, the Minutes of January 10, 2007 were adopted.

PHARMACIST RECOVERY NETWORK: A sample Pharmacist Recovery Network (PRN) Agreement and a sample Agreed Order was presented to the Board members for informational purposes. The PRN Ad Hoc Committee presented a new Agreed Order Worksheet. On motion by Dr. Policastri, seconded by Ms. Simpson and passed unanimously, the Agreed Order Worksheet was approved.

APPEARANCES: **Bernard (Sam) Coomes** was sworn in by Melanie Curtis, Court Reporter. Mr. Coomes appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Coomes gave an overview of the events that lead to the loss of his license, buying physician samples from another pharmacist then selling and dispensing these samples to patients. After discussion, Ms. Thornbury moved to allow Mr. Coomes' license to be reinstated with the stipulations as follows: continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; 3 years probation; shall provide copy of Agreed Order to all employers and pharmacists-in-charge; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall

be excluded from accepting a position of pharmacist-in-charge, power of attorney, being a preceptor, or owning a pharmacy in whole or part; shall advise Board at all times of place of employment and shall only practice at a location that has received prior approval of the Board or its President; committing any act that results in a violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties pursuant to KRS Chapter 315; shall not seek to amend or modify this Agreed Order, this Agreed Order constitutes the entire agreement between the parties and Mr. Coomes is not relying on any other agreement or representation of any kind, verbal or otherwise. The Agreed Order shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Simpson seconded, and the motion passed unanimously.

Stephen Daffron was sworn in by Melanie Curtis, Court Reporter. Mr. Daffron appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Daffron gave an overview of the events that lead to the loss of his license, pleading guilty to a class B felony, wanton endangerment, as the result of impairment. After discussion, Dr. Shely moved to allow Mr. Daffron's pharmacist license be reinstated with stipulations as follows: continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete application must be submitted; 10 years probation; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall maintain a perpetual inventory (PI) at all places of employment and pharmacies owned for CII, CIII, CIV, and CV drugs and PI shall be made available to the Board upon request and audits may be conducted; shall sign an aftercare contract, to include drug counselor if indicated, with the PRN Committee for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRN Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRN a signed release granting the Board and PRN access to all medical records; shall attend AA/NA meeting no less than 6 times per 2 week period (12 meetings per calendar month, which shall include a minimum of 2 per week); shall provide the Board and PRN with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRN, the Board or any other monitoring body; provide copies of any results of any screens ordered; provide notification to PRN Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRN Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRN Chair; shall notify PRN Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's

physician; shall provide documentation to PRN Chair of the need for the medication within 3 days; shall renew verification with PRN Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; Board shall conduct quarterly inspections for 2 years at all locations of employment or practice as a pharmacist and all pharmacies owned, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing, after 2 years Mr. Daffron may petition the Board to decrease the number or inspections; Mr. Daffron does have ownership interest in one pharmacy, Kwik Script in Monticello, Kentucky, he shall not be present on pharmacy premises at anytime, after 2 years Mr. Daffron may petition the Board to have limited access to pharmacy premises on preapproval of the Board; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions may not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluation to the PRN Chair and the Board and shall make all appearances before the PRN Committee as requested, including an annual appearance closest to the anniversary date of reinstatement; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist license with the Board imposing any applicable penalties; shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Thornbury seconded, and the motion passed unanimously.

BOARD REPORTS: **President.** President Orzali appointed Dr. Shely as Chair of the Executive Director Evaluation Committee and Dr. Policastri and Ms. Simpson as members.

Board Members. **Ms. Thornbury** stated she is continuing to serve on the Advanced Registered Nurse Practice Counsel. Ms. Thornbury stated she was concerned about the process for investigations and thinks there is a concerted effort to keep her from learning about this process. She would like a task force to review the investigation process. Ms. Thornbury would like the process changed because she believes that certain people know more than the rest of the Board. She believes that each inspector knows about every case and she objects to inspectors informing some Board members of cases but not informing all board members. In the past the President of the Kentucky Board of Pharmacy has been elected based on seniority to carry on the history of the Board but not this year.

Dr. Policastri invited everyone to the groundbreaking of the new University of Kentucky College of Pharmacy building on Friday, April 13, 2007.

Dr. Shely asked for information on the legislation granting pharmacists prescriptive authority. Mr. Burleson stated that the proposed bill was heard in committee. Jan Gould, Kentucky Retail Federation, informed the Board that the proposal will be brought before the legislature again. The proposal would create a new collaborative practice agreement and there would be additional post graduate education required.

Board Executive Director. 1) Dr. Osman was recognized for receiving the 2007 Lester E. Hosto Inspector Distinguished Service Award. He will be presented the award at the 2007 National Association Boards of Pharmacy Annual Meeting in Portland, OR on May 22. 2) MARS reports included for January and February, 2007. 3) After discussion, President Orzali appointed Dr. Policastri, Ms. Lalonde, and Mr. Burleson to make plans for a reception for recently licensed pharmacists and present the plans at the May 9, 2007 Board Meeting. 4) 87% of pharmacists renewed their Kentucky pharmacist's license online in 2007. 5) Mr. Burleson supplied the Board members with an updated copy of the Board Orientation Manual.

Board Staff. Phil Losch commended Dr. Osman on receiving the Lester E. Hosto Inspector Distinguished Service Award, stating that the award could not have gone to a more deserving person.

Jeff Osman stated that he is humbled and honored by being selected as the recipient of the Lester E. Hosto Inspector Distinguished Service Award. He thanked Mr. Burleson and Mr. Richard Ross for their support.

PRN Chairperson/Brian Fingerson. Mr. Fingerson thanked the Board for the support and help with the CAPTASA meeting, held January 26 and 27, 2007 at the Embassy Suites in Lexington, Kentucky. The conference has gotten national and international recognition. President Orzali expressed gratitude to Mr. Fingerson and the Pharmacist Recovery Network Committee for the work they do. Mr. Fingerson and the Committee serve the state well.

CURRENT/PENDING CASES:

Office of Attorney General: Ms. Lalonde presented an alternative Agreed Order proposal drafted by the attorney for a pharmacist. Ms. Thornbury moved to reject the Agreed Order of temporary suspension proposed by the representing attorney, and keep the Board's original Agreed Order. Ms. Simpson seconded, and the motion passed unanimously.

CASE UPDATES:

Ms. Thornbury moved for acceptance and entry of the proposed Agreed Orders as written. Dr. Shely seconded, and the motion passed unanimously.

Case No. 05-0065A&B; Case No. 05-0102B; Case No. 05-0109E; Case No. 06-0002; Case No. 06-0064; Case No. 06-0075; Case No. 06-0090B; Case No. 06-0097; Case

No.06-0105; Case No. 06-0106B; Case No.06-0116B; Case No. 06-0117; Case No. 06-0118; and Case No. 06-0120.

CASE REVIEW COMMITTEE:

Dr. Shely moved for acceptance of the Case Review Committee recommendations for the following case reports. Dr. Policastri seconded, and the motion passed unanimously.

Case No. 04-0072A (revisit #2). It is alleged that the permit holder possessed and dispensed misbranded and adulterated pharmaceutical drugs. It is further alleged that the pharmacy obtained pharmaceutical drugs from unauthorized vendors. It is alleged that these drugs were a combination of physician samples and institutional products. Additionally, it is alleged that the pharmacist has had an impairment issue and is under contract with the KY PRN. NEW INFORMATION: the above pharmacist has pleaded in the U.S. District Court to: conspiracy to knowingly sell, purchase and/or trade prescription drug samples and knowingly and intentionally obtaining Lortab (hydrocodone and acetaminophen) a C-III controlled substance without a prescription. Pharmacy has been closed. Alleged violations of law: KRS 217.055, KRS 217.065 and KRS 315.121 (1) & (2). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 04-0072B (revisit #2). It is alleged that the pharmacist possessed and dispensed misbranded and adulterated pharmaceutical drugs. It is further alleged that the pharmacist obtained pharmaceutical drugs from unauthorized vendors. It is alleged that these drugs were a combination of physician samples, and institutional products. Additionally, it is alleged that the pharmacist has had an impairment issue and is under contract with the KY PRN. NEW INFORMATION: the above pharmacist has pleaded in the U.S. District Court to: conspiracy to knowingly sell, purchase and/or trade prescription drug samples and knowingly and intentionally obtaining Lortab (hydrocodone and acetaminophen) a C-III controlled substance without a prescription. Alleged violations of law: KRS 217.055, KRS 217.065 and KRS 315.121 (1) & (2). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 04-0076 (revisit). It is alleged that the pharmacist obtained legend drugs illegally and sold them to a pharmacy/pharmacist in Kentucky. Alleged violations of law: KRS 315.121(1)(c)3, KRS 315.121(2)(c)(d)(e)(f)(g)(h), KRS 315.036 (4)(c), 201 KAR 2:105 Section 2, KRS 217.182 (1)(4)(5)(6)(7). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 04-0082 (revisit). Wholesaler permit holder allegedly relocated without proper notice to the Board. NEW INFORMATION: the Board office received a letter for renewal for this license where a change of address was noted, on or about September 28,

2004 thinking that he could renew and make a change of address at the same time. This renewal application with an address change was sent with an anticipated date of September 9, 2004; however, the date of change was not done until October 8, 2004. Alleged violations of law: KRS 315.036(1) and 201 KAR 2:050 Section (1)(13). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 06-0087 (revisit). Special limited gas permit holder allegedly failed to renew permit in a timely manner and continued to operate as a special limited medical gas pharmacy. NEW INFORMATION: there are currently no oxygen tanks at this facility. Alleged violations of law: KRS 315.035 (1) and (4) and 201 KAR 2:225. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0110B (revisit). Special limited medical gas pharmacy permit holder allegedly failed to renew permit in a timely manner and continued to operate and consultant pharmacist allegedly failed to conduct quarterly inspections. NEW INFORMATION: on or about February 28, 2007 the Board office received a letter from permit holder stating that pharmacist-in-charge had informed them to void the permit and return it to the Board if they were going to no longer carry oxygen. The company did not contact the pharmacist-in-charge to let him know that the company had decided to continue. Alleged violation of law: 201 KAR 2:225 Section 2(1)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0112A. Pharmacy permit holder committed a medication error by mixing and dispensing sodium bicarbonate and carisoprodol in a prescription vial that should have been filled with sodium bicarbonate only. Alleged violations of law: KRS 315.121 (2)(d) and KRS 217.065 (2)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0112B. Pharmacist committed a medication error by mixing and dispensing sodium bicarbonate and carisoprodol in a prescription vial that should have been filled with sodium bicarbonate only. Alleged violations of law: KRS 315.121 (2)(d) and KRS 217.065 (2)(b). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 06-0113A. Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. The patient received a prescription for Lortab 5mg with the incorrect doctor's name on the prescription label. Alleged violations of law: KRS 315.121 (1)(a), (2)(d) and KRS 217.065(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0113B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The patient received a prescription for Lortab 5mg with the incorrect doctor's name on the prescription label. Alleged violations of law: KRS 315.121 (1)(a), (2)(d) and KRS 217.065(1). CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

Case No. 06-0114A. Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by failing to exercise due diligence in providing the correct medication to the correct patient for whom it was prescribed. Alleged violations of law: KRS 315.121(1)(a), (2)(b)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 06-0114B. Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to exercise due diligence in providing the correct medication to the correct patient for whom it was prescribed. Alleged violations of law: KRS 315.121(1)(a), (2)(b)(d). CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

Case No. 06-0121. Pharmacist allegedly violated previous Agreed Order 01-0075. Pharmacist was issued an Order of Reinstatement on March 6, 2002. Pharmacist agreed to quarterly inspections by the Board, the costs of which shall be paid by the pharmacist. Pharmacist allegedly has not paid for two of the inspections. Alleged violations of law: KRS 315.121(1)(i) and KRS 315.990(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0002. Pharmacy permit holder allegedly failed to report PIC change within 14 days. Alleged violation of law: 201 KAR 2:205 Sec.2(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0003. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0004. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0005. Pharmacist allegedly failed to complete 4 of the 15 required hours of Continuing Education for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0006. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Pharmacist reported only completing 11 of 15 required hours. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0007. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2005. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0008A. Pharmacy permit holder allegedly committed multiple medication errors involving mislabeling and failing to maintain confidential information. Alleged violations of law: KRS 315.121 (2)(b)(d) and KRS 217.065. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 07-0008B. Pharmacy permit holder allegedly committed multiple medication errors involving mislabeling and failing to maintain confidential information. Alleged violations of law: KRS 315.121 (2)(b)(d) and KRS 217.065. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 07-0008C. Pharmacist allegedly committed multiple medication errors involving mislabeling and failing to maintain confidential information. Alleged violations of law: KRS 315.121 (2)(b)(d) and KRS 217.065. CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

Case No. 07-0010. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015.

CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0011. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Pharmacist reported only completing 14 of 15 required hours.

Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC

Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0012. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Pharmacist reported only completing 13 of 15 required hours.

Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC

Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0013. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Pharmacist reported only completing 13 of 15 required hours.

Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC

Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0014. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Pharmacist reported only completing 11 of 15 required hours.

Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC

Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0015. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2006. Pharmacist reported only completing 9 of 15 required hours.

Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC

Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0017. Special limited medical gas pharmacy allegedly moved without prior proper notification to the Board office and an inspection by a pharmacy and drug inspector, resulting in a prescription drug (oxygen) being stored at an unlicensed facility. Alleged violations of law: KRS 315.035(5) and 201 KAR 2:225 Section 2(3). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0019. Pharmacist allegedly failed to complete 15 hours of Continuing Education for 2005. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0020A. Pharmacy permit holder allegedly dispensed a misbranded product as the result of a medication error. Pharmacy allegedly failed to maintain proper record keeping and failed to maintain current license. Alleged violations of law: KRS 315.121(1)(a)(2)(d), KRS 217.065, 315.110(2)(3) and 201 KAR 2:205, section 2(3)(c). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0020B. Pharmacist allegedly dispensed a misbranded product as the result of a medication error. Alleged violations of law: KRS 315.121(1)(a)(2)(d), KRS 217.065, 315.110(2)(3) and 201 KAR 2:205, section 2(3)(c). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0020C. Pharmacist was allegedly practicing without pocket certificate or wall certificate. Alleged violations of law: KRS 315.121(1)(a)(2)(d), KRS 217.065, 315.110(2)(3) and 201 KAR 2:205, section 2(3)(c). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

CORRESPONDENCE/COMMUNICATIONS:

Expungement. Ms. Thornbury moved to expunge EX 01-07. Ms. Simpson seconded, and the motion passed unanimously.

Refill Reminder Program. Alissa Smith, attorney, sent a letter asking for permission for a client to use an automated refill reminders system. Dr. Shely moved to direct the Executive Director to write a letter stating that the pharmacy and the third party sending

the refill reminder letters need to enter into an appropriate HIPAA business contract. Dr. Policastri seconded and the motion passed unanimously.

OTC Medications – Psychiatric Residential Treatment Facilities. Melissa Muse, Director of Member Services for Children’s Alliance, asked for clarification on whether over the counter (OTC) medications in psychiatric residential treatment facilities had to be individually labeled with each resident’s name per Kentucky Board of Pharmacy requirements. Ms. Simpson moved to direct the Executive Director to write a letter stating if the OTC medication is issued pursuant to a prescription, it must be properly labeled, however, if that is not the case then the Kentucky Board of Pharmacy does not have jurisdiction. Ms. Thornbury seconded, and the motion passed unanimously.

Dual PIC for Pharmacy Corner and Corner Homecare. Robert Traylor, Director of Pharmacy Services, requested approval for Christi Lander to serve as pharmacist-in-charge for Pharmacy Corner of Owensboro and Corner Homecare/Option Care of Owensboro. Ms. Thornbury moved to approve dual pharmacist-in-charge for Christi Lander at Pharmacy Corner of Owensboro and Corner Homecare/Option Care of Owensboro. Dr. Policastri seconded, and the motion passed unanimously.

Dual PIC for Hazelwood and Central State. Peggy Brashear, Regional Director of Operations, Pharmacy Systems, Inc., requested Bryan K. Strobl to serve as dual pharmacist-in-charge for Hazelwood Center and Central State Hospital. Ms. Thornbury moved to approve dual pharmacist-in-charge for Bryan K. Strobl at Hazelwood Center and Central State Hospital. Dr. Policastri seconded, and the motion passed unanimously.

NABP: The National Association of Boards of Pharmacy Annual Meeting will be May 19-22, 2007 in Portland, Oregon.

LEGISLATION/REGULATIONS:

Jan Gould, Kentucky Retail Federation, gave an update to the Board on the 2007 Kentucky Legislative Session. Senate Bill 88 passed and will make controlled substance prescriptions illegal that are not based on valid patient-physician relationships at least initiated by a face to face evaluation (outlaws internet questionnaire). It completely outlaws any out of state pharmacy not being licensed by the Kentucky Board of Pharmacy (did away with the waiver for fewer than 25 prescriptions per month shipped into Kentucky). If the pharmacy has 25% or more of the prescriptions filled being internet based, the pharmacy must be a certified as a Verified Internet Pharmacy Practice Site (VIPPS). It also strengthens the penalties for pharmacies that intentionally fail to report data to the Kentucky All Scheduled Prescription Electronic Reporting system (KASPER). Ms. Simpson thanked Mr. Gould and everyone who worked on this bill.

Another bill that passed instructed the Office of Drug Control Policy to police pseudoephedrine sales electronically with the Commonwealth of Kentucky providing pharmacies the electronic equipment.

Two drug importation bills were introduced but neither passed.

Senate Bill 112, raising Kentucky Board of Pharmacy members daily per diem from \$100 to \$200 per day, has passed the Senate and is out of the House committee, awaiting a House vote.

House Bill 535, the technician registration bill, did not receive a hearing.

Two drug companies introduced a wholesaler pedigree bill that received criticism from the pharmacy world. The bill died in committee.

A bill passed that instructed the Cabinet for Health and Family Services to enter into reciprocal agreements with other states regarding KASPER and data sharing. The Cabinet was urged to update the KASPER system to real time.

House Bill 287, Emergency Volunteer Health Practitioner Act, passed. In a declared state of emergency, all healthcare boards can expand the scope of practices of their licensees so that healthcare practitioners will be able to respond to emergencies immediately.

201 KAR 2:250. After some discussion Ms. Thornbury moved for Katie Busroe, Mike Burleson, and Cheryl Lalonde to review 201 KAR 2:250 and bring the amendments to the Board at the May 9, 2007 Board meeting. Dr. Shely seconded, and the motion passed unanimously.

201 KAR 2:260. Ms. Simpson moved to approve and file new regulation 201 KAR 2:260 on Automated Dispensing System in Residential Hospice Facilities with a hearing on April 24 at 9:00 a.m. Dr. Shely seconded, and the motion passed unanimously.

CONTINUING EDUCATION:

Ms. Thornbury moved to denied continuing education credit to program 07-10. Ms. Simpson seconded, and the motion passed unanimously.

Ms. Thornbury moved to accept the continuing education programs 07-08 and 07-09 and 07-11 through 07-17 as recommended. Ms. Simpson seconded, and the motion passed unanimously.

OLD BUSINESS:

Wholesaler/Manufacturer Application. Ms. Thornbury moved to have Mr. Burleson, Ms. Lalonde, and staff review, update, and present the Wholesaler/Manufacturer Application at the May 9, 2007 Board meeting. Ms. Simpson seconded, and the motion passed unanimously.

USP 797 still tabled.

November 2007 Board Retreat. After discussion, President Orzali decided to have the Board Retreat in Lexington, either at Marriott or Embassy Suites, with a reception for past Board Members at the Board office. Invitations will be sent.

NEW BUSINESS:

Current status of the ARNP controlled substances was mass emailed to pharmacists that have their email addresses on file with the Board office. President Orzali instructed Mr. Burleson to report mass emails to pharmacists at the Board meeting following the email so that the emailed information can be entered into the Minutes.

ADJOURNMENT: On motion by Ms. Thornbury, seconded by Ms. Simpson, and passed unanimously, President Orzali adjourned the meeting at 3:55 p.m. The next regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on May 9, 2007 at the Board Office.

Michael Burleson, Executive Director